



New York Association of
Psychiatric Rehabilitation Services, Inc.



January 19, 2021

Erin E. Ives
Acting Medicaid Inspector General
Office of the NYS Medicaid Inspector General
800 North Pearl Street
Albany, New York 12204

Re: Ordering, Prescribing, Referring, or Attending Provider Audits.

Dear Acting Medicaid Inspector General Ives:

Collectively, the undersigned organizations represent the vast majority of OMH and OASAS outpatient mental health and substance use disorder treatment programs in the state, and hundreds of thousands of New Yorkers who rely on their services each day. We write today on behalf of our association members regarding the Non-Enrolled or Excluded Ordering, Prescribing, Referring, or Attending (“OPRA”) Provider audits being undertaken by the New York State Office of Medicaid Inspector General (“OMIG”).

As you are aware, OMIG has begun “probe” audits focusing on OPRA requirements for a subset of OMH and OASAS outpatient providers. These audits, however, have significant underlying issues that must be resolved prior to the finalization of the existing audits and the expansion to the greater industry, as they will have a crippling impact on our members’ continued viability and they will further de-stabilize a system of care that is struggling to meet increasing demand for care in every community across New York, beginning with communities of color that have been hardest hit by the ongoing COVID-19 pandemic.

First, our association members have received guidance from various State agencies pertaining to OPRA requirements. However, these State agencies, and particularly the New York State Department of Health (“DOH”), have provided guidance that is misleading. Providers rely on the guidance given by State agencies to ensure that claims are processed correctly. By providing unreliable guidance, DOH has put providers in an untenable situation. Based on the flawed OPRA audits being implemented by OMIG, providers will now be subject to substantial recoupments, due to non-

compliance that is not based on fraud and/or abuse, but instead is based on misleading and, at the time, new information and directives.

Second, as you are aware, providers, including our association members, are required to submit electronic claims for services billed through eMedNY. We have become aware that the eMedNY system has been inappropriately auto-populating claims fields in these electronic claims submissions, leading to issues with the OPRA provider compliance requirements. As these compliance-related issues are of no fault of the providers, and instead are based on inappropriate and inaccurate auto-populating by DOH's eMedNY system, OMIG should not place the burden on providers by subjecting them to audits, devastating overpayment findings, and interest.

Third, at some point since these OPRA provider requirements were implemented, DOH made the unilateral decision to disable an editing function in eMedNY that would have rejected claims with inaccurate or blank OPRA provider information. This claim rejection function would have allowed providers to correct claims errors in real time, rather than having the claims be processed, and thereby subjecting providers to future recoupments at times when the claims could no longer be corrected. The disabling of eMedNY's editing function has resulted in a potential crippling of these impacted providers as they have been unfairly denied the opportunity to correct any claims errors prior to receiving Medicaid Program payments, and instead, will be required to repay substantial sums for services that were appropriately provided and otherwise correctly billed.

Finally, the rollout of this flawed audit seeking excessive recoupments during a national pandemic is of great concern. As you are well aware, the COVID-19 crisis requires providers' full attention, attention which cannot be given if providers are otherwise focused on defending against a fundamentally flawed and unjust audit. Moreover, subjecting providers who are already suffering the impacts of withholds and reductions in reimbursement rates due to the COVID-19 pandemic to substantial recoupments based on these flawed OPRA provider audits will sharply reduce access to care from the entities the state is relying to expand our reach to New Yorkers in need.

We ask that OMIG not ignore the significant issues identified herein, and instead put an immediate halt to any final actions that would impact the subset of providers who have already been swept up in this audit. In addition, we urge you to suspend any plans to broaden the audit until such time as the issues we have raised are thoroughly reviewed and addressed by your Office. We urge you to take the necessary actions to prevent the devastating economic impact that these issue-laden OPRA provider audits will have on Medicaid providers, and in doing so, help to preserve access to mental health and substance use treatment services across New York.

Our group is eager to meet with you at your very earliest convenience so we can discuss our requests as well as potential solutions to the issues raised in this letter.

We look forward to a productive discussion.

Sincerely,

Lauri Cole, Executive Director
New York State Council for Community Behavioral Healthcare

Allegra Schorr, President
Coalition of Medication-Assisted Treatment Providers and Advocates of New York State

Andrea Smyth, Executive Director
NYS Coalition for Children's Behavioral Health

Amy Dorin, CEO
The Coalition for Behavioral Health

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